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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,080	03/23/2004	Noriyuki Fujimori	17552	3849

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EXAMINER

SMITH, PHILIP ROBERT

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/807,080

Applicant(s)

FUJIMORI ET AL.

Examiner

Philip R. Smith

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/23 & 7/15/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Restrictions**

- [01] Claim 3 is withdrawn without traverse from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, as per the correspondence of 9/27/2006.

### **Specification**

- [02] The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### **Claim Rejections - 35 USC § 102**

- [03] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

- [04] Claims 1,2,4 are rejected under 35 U.S.C. 102(a) as being anticipated by Niida (2002/0045801).

- [05] With regard to claim 1: Niida discloses a capsule endoscope comprising:

[05a] temperature detection means ("temperature detector 27," [0074]) which is arranged in a lighting unit ("light source unit 23") and which detects an internal temperature of the lighting unit, converts information indicating the detected temperature into an electric signal in a predetermined format ("selector switch 27a," [0074]), and generates the electric signal;

[05b] temperature determination means ("CPU 31," [0075]) for performing a predetermined determination on the basis of the electric signal generated from the temperature detection means ("detects whether the temperature at or near the lamp is equal to or larger than a predetermined value," [0062]); and

[05c] power control means ("lamp power supply 24," [0075]) for controlling power supply to the corresponding internal electric circuit on the basis of the determination result obtained by the temperature determination means.

[06] With regard to claim 2: Niida discloses that when the temperature determination means determines that the internal temperature is higher than a predetermined value, the power control means controls so that the power supply to the corresponding internal electric circuit is interrupted ("stops supply of power to the lamp 22," [0075]).

[07] With regard to claim 4: Niida discloses that the temperature detection means comprises a member which is independent of the internal electric circuits and is arranged in a power supply line constituting a part of the internal electric circuits (see Fig. 5).

### **Claim Rejections - 35 USC § 103**

[08] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought

to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[09] Claims 5,6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niida in view of Tamaoki (4,757,347).

[10] Niida discloses that "temperature detector 27" is a "temperature detecting means that detects whether the temperature at or near the lamp is equal to or larger than a predetermined value" ([0062]).

[11] Niida does not disclose that this is particularly a thermal fuse or thermistor.

[12] Tamaoki discloses "[a] temperature detector 20 with a built-in thermistor and a thermal fuse."

[13] At the time of the invention, it would have been obvious to a person of ordinary skill in the art that, the "temperature detecting means" disclosed by Niida take the form of a thermistor or thermal fuse. A skilled artisan would be motivated to do so because these are conventional forms of temperature detecting means. In reduction to practice, it is obvious to use well-known elements.

### Conclusion

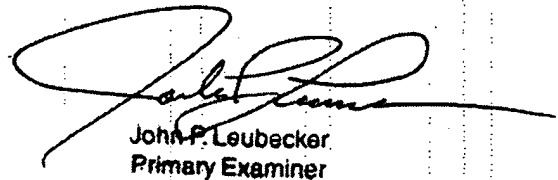
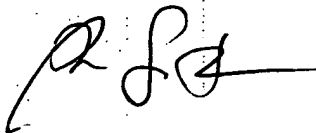
[14] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hibino (5,060,632) discloses a heat-shutoff condition for protection from motor overheating.

[15] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip R. Smith whose telephone number is (571)

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272 6087 and whose email address is philip.smith@uspto.gov. The examiner can normally be reached between 9:00am and 5:00pm.

- [16] If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272 4764.
- [17] Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John P. Leubecker  
Primary Examiner